

Wisconsin Department of Transportation
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November 25, 2009

Ms. Anne K. Quinlan
Acting Secretary
Surface Transportation Board
395 E Street, SW
Washington, D.C. 20423-0001

ENTERED
Office of Proceedings
NOV 25 2009
Part of
Public Record

BY ELECTRONIC FILING

Re: STB Docket No. AB-303 (Sub No. 34X) Wisconsin Central, Ltd. – Abandonment
Exemption – in Brown County, WI – Petition for Notice of Interim Trail Use.

Dear Ms. Quinlan:

Please find the Wisconsin Department of Transportation's Notice of Interim Trail Use filed on
behalf of the Wisconsin Department of Natural Resources.

A copy of this filing has been mailed electronically to all parties listed below.

Sincerely,

Kathleen Chung
Attorney

Enclosures

Cc: Frank Huntington, WisDOT
Richard Steffes, WisDNR
Jeremy Berman, WCL, Fletcher and Sippel, LLC

FILING FEE WAIVED

BEFORE THE
SURFACE TRANSPORTATION BOARD

AB-303 (SUB-NO. 34X)

WISCONSIN CENTRAL LTD. –
ABANDONMENT EXEMPTION
IN BROWN COUNTY, WISCONSIN

**WISCONSIN DEPARTMENT OF NATURAL RESOURCES (DNR)
PETITION FOR NOTICE OF INTERIM TRAIL USE**

BACKGROUND

On November 3, 2009, Wisconsin Central Ltd. (WCL) filed with the Surface Transportation Board (Board) a Notice of Exemption under 49 CFR 1152 Subpart F – Exempt Abandonments to abandon a .25-mile line of railroad, from milepost 97.50 to milepost 97.75, in Denmark, Brown County, WI. The line traverses through United States Postal Service Zip Code 54208.

On November 25, 2009, the Wisconsin Department of Natural Resources, an administrative agency of the State of Wisconsin, signed a Statement of Willingness to Accept Financial Responsibility pursuant to 49 C.F.R. § 1152.29. This statement is for the .25-mile segment of WCL railroad, from milepost 97.50 to milepost 97.75, in Denmark, Brown County, WI.

PURPOSE

Wisconsin Department of Transportation (WisDOT) petitions to obtain a notice of interim trail use for interim highway, bicycle, pedestrian and other trail purposes and railbanking pursuant to 16 U.S.C. § 1247(d) and 49 C.F.R. § 1152.29 for DNR for specified segments of the right of way involved in this proceeding. DNR will use or preserve the land corridor and related real property for interim public transportation and recreational purposes (including highway,

pedestrian and other trail), subject to restoration for railroad purposes. WisDOT and DNR have agreed to work cooperatively to acquire and use the right of way.

STATE AND AGENCY RESPONSIBILITIES

WisDOT is the designated state agency in rail matters in the State of Wisconsin. 49 U.S.C. Appx. § 1654(a) (formerly § 1654(j)), 49 C.F.R. § 266.1 and Ch. 85, Wis. Stats. WisDOT is responsible for all state and federally-aided highway construction and all state and federally-aided airport construction in Wisconsin. Secs. 84.01(2) and 114.32(1) and (5), Wis. Stats. WisDOT has the statutory first right to acquire for present or future transportation, recreational or scenic purposes any property used in operating a railroad that is abandoned in Wisconsin. Sec. 85.09(2), Wis. Stats.

WisDOT has state statutory authority to incorporate trails into the highway right-of-way in sec. 84.06(11), Wis. Stats.:

"(11) State Trails. As a part of any highway improvement or as a separate project under this section, a portion of a hiking trail, cross-country ski trail, bridle trail or bicycle trail under the management of a state agency, municipality or nonprofit may be incorporated into the highway right-of-way, and facilities for safe crossing of the highway may be provided."

DNR and WisDOT need the interim trail use designation to fulfill federal and state transportation and environmental responsibilities.

NOTICE OF INTERIM TRAIL USE

WisDOT respectfully requests that the Board provide DNR a notice of interim bicycle, pedestrian and other trail use and rail banking condition to accomplish the above public purposes. WisDOT is interested in having DNR acquire and use the right of way of the rail line being abandoned for interim bicycle, pedestrian or other trail use and rail banking.

Exhibit A consists of a map showing the location of all the needed property in Brown County, Wisconsin.

Exhibit B is the required Statement of Willingness by DNR to assume full responsibility for management of the property.

DNR's acquisition of the corridor for present and future transportation purposes as stated above is consistent with all Congressional purposes and neither abandonment nor discontinuance permitted by the STB conditioned as requested by DNR would be inconsistent with or disruptive of potential future rail use.

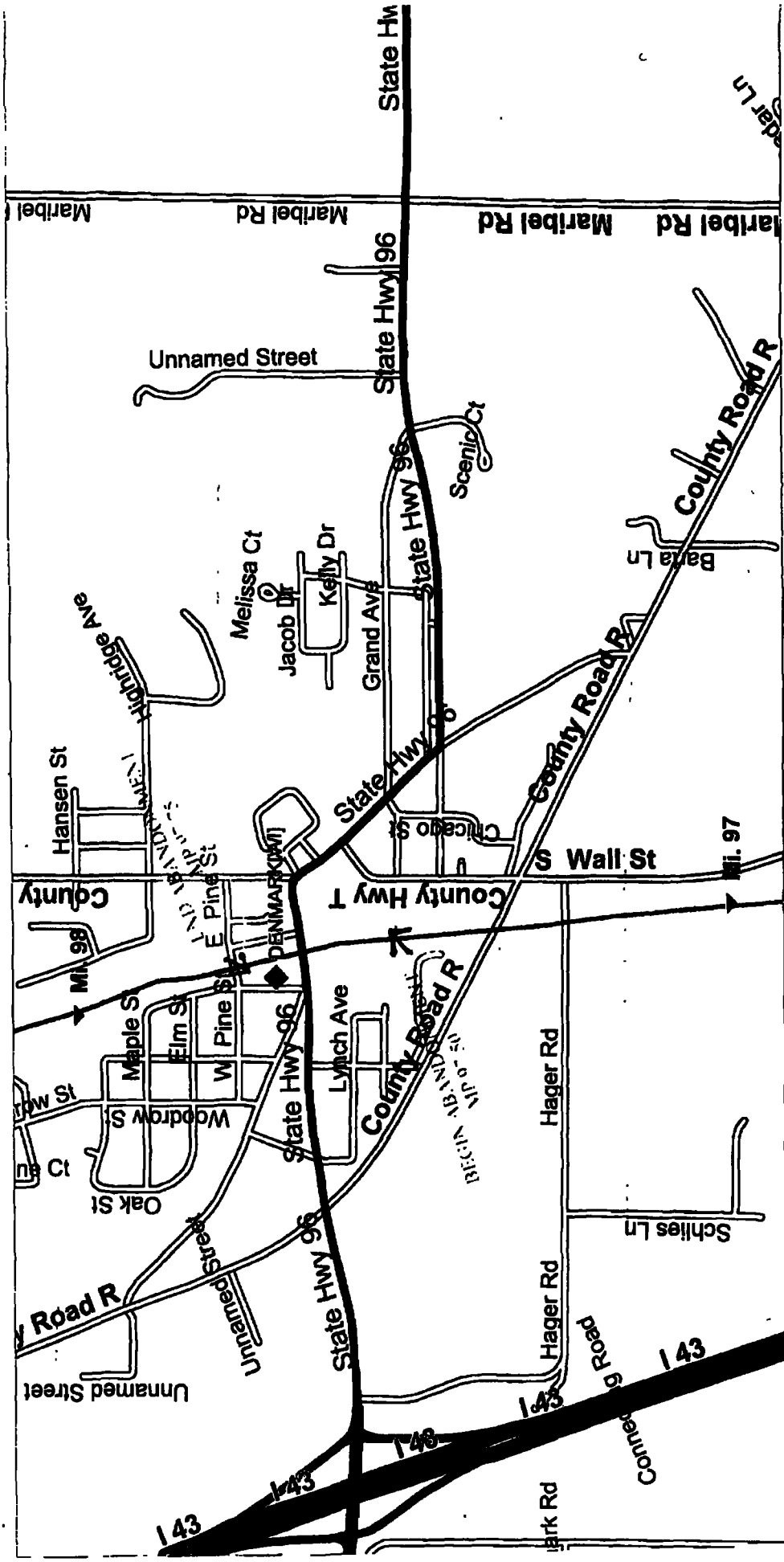
CONCLUSION

WisDOT respectfully requests the Board to issue a Notice of Interim Trail Use for the land corridor and related real property, for the .25-mile segment of WCL railroad, from milepost 97.50 to milepost 97.75, in Denmark, Brown County, Wisconsin to DNR. This will allow all forms of transportation to be provided in a unified, interconnected, economically-efficient, and environmentally sound manner.

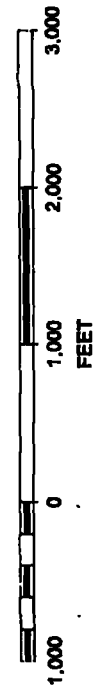
Respectfully submitted,

Kathleen Chung, State Bar No. 1032802
Wisconsin Department of Transportation
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Wisconsin Department of Transportation

DENMARK, WI



SCALE 1 : 13,655



BEFORE THE SURFACE TRANSPORTATION BOARD

CANADIAN NATIONAL/WISCONSIN CENTRAL, LTD.
ABANDONMENT EXEMPTION IN BROWN COUNTY

STATEMENT OF WILLINGNESS TO ACCEPT RESPONSIBILITY BY THE STATE OF
WISCONSIN, DEPARTMENT OF NATURAL RESOURCES
PURSUANT TO 49 CFR 1152.29

In order to establish interim trail use and rail banking under 16 U.S.C. 1247(d) and 49 CFR 1152.29, the State of Wisconsin, Department of Natural Resources (Interim Trail User) is willing to assume full responsibility for management of, for any legal liability arising out of the transfer or use of (unless the user is immune from liability; in which case it need only indemnify the railroad against any potential liability), and for payment of any and all taxes that may be levied or assessed against the right-of-way owned by Canadian National/Wisconsin Central, Ltd. (Railroad) and operated by Canadian National/Wisconsin Central, Ltd. The property, known as the Denmark Connection, extends from railroad milepost 97.5 to milepost 97.75, south of West Pine Street, a distance of 0.25 miles in the Town of Denmark, Brown County, Wisconsin. The right-of-way is part of a line of railroad proposed for abandonment in Docket No. STB AB-303 (Sub-No. 34X).

A map of the property depicting the right-of way is attached as Exhibit A.

The State of Wisconsin, Department of Natural Resources acknowledges that use of the right-of-way is subject to the user's continuing to meet its responsibilities described above and subject to possible future reconstruction and reactivation of the right-of-way for rail service. A copy of this statement is being served on the railroad, Canadian National/Wisconsin Central, Ltd., on the same date it is being served on the Surface Transportation Board.

State of Wisconsin, Department of Natural Resources

Represented By:


Richard E. Steffes
Real Estate Director

Date:

11-25-09

CERTIFICATE OF SERVICE

I hereby certify that I have caused the foregoing Request for NITU extension in regards to AB303 34X, by electronic mail, pursuant to 49 C.F.R. §1104.12, this 25th day of November 2009, on all parties of record on the service list.

Kathleen Chung

Kathleen Chung, Attorney
State Bar no. 1032802
Wisconsin Department of Transportation
Office of General Counsel